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8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**
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11 MICHAEL ANTHONY GILLILAND,
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13 vs. Petitioner,
14 DENNIS SMITH, Warden of the Federal
Bureau of Prisons, USP and SCP Atwater,
15 Respondent.

CASE NO. 07CV1650 WQH (RBB)
ORDER DISMISSING PETITION
FOR WRIT OF HABEAS CORPUS
WITHOUT PREJUDICE

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17 HAYES, Judge:

18 Pending before the Court is Petitioner Michael Anthony Gilliland's Petition for Writ of Habeas
19 Corpus pursuant to 28 U.S.C. § 2241. (Doc. # 1).

20 **BACKGROUND**

21 On August 20, 2007, Petitioner Michael Anthony Gilliland filed a Petition for Writ of Habeas
22 Corpus pursuant to 28 U.S.C. § 2241 in the United States District Court for the Southern District of
23 California. (Doc. # 1). Petitioner is incarcerated in federal prison in Atwater, California, and seeks
24 a transfer from the prison to a Residential Re-entry Center. Petition at 1-2. Petitioner does not
25 challenge his underlying conviction, only the condition and place of his detention.

26 **DISCUSSION & ORDER**

27 28 U.S.C § 2241(a) provides that, "Writs of habeas corpus may be granted by the Supreme
28 Court, any justice thereof, the district courts and any circuit judge *within their respective*


1 *jurisdictions.*” (Emphasis added.). Though there are limited exceptions, “the plain language of the
2 habeas statute . . . confirms the general rule that for core habeas petitions challenging present physical
3 confinement, jurisdiction lies in only one district: the district of confinement.” *Rumsfeld v. Padilla*,
4 542 U.S. 426, 443 (2004); *see also Brown v. United States*, 610 F.2d 672, 677 (9th Cir. 1980).

5 After reviewing the Petition for Habeas Corpus, the Court concludes that Petitioner challenges
6 his present physical confinement in a core habeas proceeding, and therefore, jurisdiction only lies in
7 the district in which Petitioner is presently confined. Petitioner is presently confined in Atwater,
8 California, and Atwater is not within the geographic boundaries of the United States District Court
9 for the Southern District of California. Accordingly, this Court concludes that it lacks jurisdiction to
10 resolve the presently pending Petition pursuant to 28 U.S.C. § 2241. *See Padilla*, 542 U.S. at 443.
11 Though Petitioner was sentenced in the United States District Court for the Southern District of
12 California, the Court declines to construe the present Petition as being filed pursuant to 28 U.S.C. §
13 2255.

14 The Petition for Writ of Habeas Corpus (Doc. # 1) is DISMISSED without prejudice for lack
15 of jurisdiction. Petitioner may re-file the Petition for Writ of Habeas Corpus in the United States
16 District Court for the Eastern District of California.

17 **IT IS SO ORDERED.**

18 DATED: August 22, 2007

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20 **WILLIAM Q. HAYES**
21 United States District Judge
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